

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CASSANDRA B. CHARLES,

Plaintiff,

v.

U.S. OFFICE OF PERSONNEL  
MANAGEMENT,

Defendant.

No. 2:23-cv-02200 DAD AC PS

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21). Plaintiff moved to proceed in forma pauperis (“IFP”) and was granted permission to do so. ECF Nos. 2, 3. Pursuant to the screening process accompanying IFP status, plaintiff’s initial complaint was rejected for failure to state a claim, and plaintiff was directed to file an amended complaint. ECF No. 3. On October 16, 2023, plaintiff filed a “statement” that the court construed as an amended complaint, but which again did not state a claim upon which relief could be granted and was again insufficient for the court to order service of process. ECF No. 4. The court rejected the amended complaint and gave plaintiff another opportunity to file a serviceable amended complaint. ECF No. 5. Though plaintiff was given 30 days to file a second amended complaint, she did not do so. The court, concerned that plaintiff abandoned the case, issued an order to show cause why the

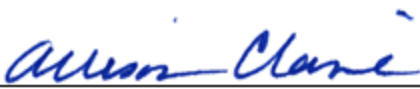
1 case should not be dismissed for failure to prosecute. ECF No. 6.

2 Plaintiff responded to the Order to Show Cause stating that her case should not be  
3 dismissed for failure to prosecute but refusing to file an amended complaint, stating “[b]eing that  
4 I stand firm on my original complaint, (with no disrespect) there is nothing for me to amend.”  
5 ECF No. 7 at 1. Because plaintiff refuses to file an amended complaint and expressed a desire for  
6 the court to move forward with the currently operative complaint (ECF No. 4), the undersigned  
7 recommends dismissal on the merits for failure to state a claim, and hereby incorporates the  
8 rationale set forth in the prior order rejecting that complaint, docketed at ECF No. 5.

9 Thus, it is hereby RECOMMENDED that this case be dismissed in its entirety, with  
10 prejudice, for failure to state a claim upon which relief can be granted.

11 These findings and recommendations are submitted to the United States District Judge  
12 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one (21)  
13 days after being served with these findings and recommendations, plaintiff may file written  
14 objections with the court. Such document should be captioned “Objections to Magistrate Judge’s  
15 Findings and Recommendations.” Local Rule 304(d). Plaintiff is advised that failure to file  
16 objections within the specified time may waive the right to appeal the District Court’s order.  
17 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

18 DATED: January 4, 2024

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20 ALLISON CLAIRE  
21 UNITED STATES MAGISTRATE JUDGE  
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